

REMARKS

Upon entry of the present amendment, claims 1 and 21 will have been amended and resubmitted for consideration by the Examiner. Accordingly, upon entry of the present amendment, claims 1-13 and 16-21 will remain pending in the present application. Reconsideration and withdrawal of the outstanding rejections asserted against claims 1-10 and 21 are respectfully requested. Such action is now believed to be appropriate and proper.

Initially, Applicants wish to respectfully thank the Examiner for considering the Information Disclosure Statement filed in the present application on June 14, 2007 by the return of a signed and initialed copy of the PTO 1449 form attached thereto.

In the outstanding Official Action, the Examiner rejected claims 1-3 under 35 U.S.C. § 103 (a) as being unpatentable over NOZAWA et al. (U.S. Patent No. 5,548,393). Claims 1 and 3 were further rejected under 35 U.S.C. § 103(a) as unpatentable over HERVE (French Patent Application No. 2578978). Claims 4 and 21 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over NOZAWA et al. in view of ZELIHA (German Patent Publication 199 10 301). Claims 5-10 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over ZAGLIO (European Patent Publication 0389446) in view of SALO (U.S. Patent No. 6,760,098).

The Examiner indicated that claims 11-13 and 16-20 were allowable. Applicants note with obvious appreciation the Examiner's indication of allowability with respect to these claims but respectfully submit that all of the claims pending in the present application are allowable over the prior art of record herein. Accordingly, Applicants

respectfully traverse each of the above noted rejections and submit that they are inappropriate with respect to the combinations of features recited in each of Applicants' claims.

One aspect of Applicants' invention, as defined in claim 1, relates to a refractometer for measuring a refractive index of a sample. The refractometer includes a prism having an interface surface for contacting the sample, a light source configured to radiate light so that the light enters the prism through an entrance face of the prism and irradiates the interface surface and a photoelectric sensor configured to measure a luminous energy distribution of light reflected from the interface surface through an exit face of the prism, wherein the light source and the photoelectric sensor are attached to the entrance face and to the exit face of the prism, respectively.

As noted above, claim 1 was rejected under 35 U.S.C. § 103 (a) as unpatentable over either NOZAWA et al. or HERVE. However, claim 1 recites, inter alia, a photoelectric sensor configured to measure a luminous energy distribution of light reflected from said interface surface through an exit face of said prism. It is respectfully submitted a neither NOZAWA et al. or HERVE disclose at least this feature, in the claimed combination.

In this regard, Applicants note that NOZAWA et al. relates to an oil deterioration detection apparatus and apparatus for detecting particles in liquid. NOZAWA et al. discloses a light emitting portion for emitting examination light which is totally reflected by a boundary surface contiguous to the liquid to be examined, a photosensor for receiving the totally reflected light, a reference sensor for directly receiving the examination light and a judgment portion for finding the reflectance from outputs of the

two sensors to compute particle concentration. However, as set forth in column 8, starting at line 14, the judgment portion 20 calculates a ratio of the output signal of the photosensor 12 to the output signal of the reference photosensor 13. However both of the output signals are based upon the "intensity" of the light, as is clearly set forth in the paragraph beginning at column 7, line 12. In direct contrast, the photoelectric sensor of the present invention, as recited in claim 1, is configured "to measure a luminous energy distribution of light reflected from said interface surface". Thus, since the NOZAWA et al. reference relied upon measures the intensity of the examination light whereas the present invention measures a distribution of the luminous energy of the light, Applicants' claims are clearly patentable thereover.

In a generally similar manner, HERVE relates to measuring the "intensity" of the various reflected rays 9, 9' and 9", and the point of the onset of a sharp variation in the intensity is determined. Thus, Harve also does not disclose measuring a luminous energy distribution of the light.

Accordingly, neither NOZAWA et al. or HARVE contains disclosures that are either adequate or sufficient to render unpatentable the combination of features recited in Applicants claim 1. Thus, Applicants respectfully request that the Examiner reconsider and withdraw each of the above noted rejections applied against Applicants' claim 1.

The aspect of Applicants' invention recited in claim 5, relates to a refractometer comprising a prism having an interface surface, the interface surface being providable with a sample and a sample stage arranged surrounding the interface surface, wherein the sample stage includes a non-adhesive coating.

In rejecting claim 5, the Examiner relied upon ZAGLIO in view of SALO. The Examiner admitted ZAGLIO does not disclose the recited non-adhesive coating. Accordingly, the Examiner relied upon SALO for this feature. However, Applicants respectfully submit that SALO does not contain a disclosure adequate or sufficient to disclose a non-adhesive coating as recited in Applicants' claim 5.

In particular, SALO merely discloses the use of polytetrafluoroethylene as a sealing member. However SALO does not disclose or teach the use thereof as a non-adhesive coating for a sample stage. At column 3, lines 39 to 40, which was relied upon by the Examiner, SALO merely discloses that polytetrafluoroethylene can be used in the sealing of the optical window. However, Applicants claim 5 recites, inter alia, a non-adhesive coating. Thus, it is respectfully submitted that SALO does not teach a non-adhesive coating as recited in Applicants claim 5 and accordingly SALO can not overcome or supply the admitted deficiencies of ZAGLIO.

While ZAGLIO deals with a sample 5, SALO relates to a moving process fluid. Accordingly, there is no reason to modify ZAGLIO with any teachings of SALO since their operating environment are so dissimilar as well as because neither of these references has any need for a non-adhesive coating. In this regard, Applicants note that neither of these references is directed to the facilitation of cleaning of the sample stage or to removing a sample that maybe a highly adhesive material. Thus, even though SALO discloses the use of polytetrafluoroethylene as a sealing material, there is clearly no teaching therein of coating the sample stage with a non-adhesive coating, such as polytetrafluoroethylene, since there is no need for such coating in either of ZAGLIO or SALO.

Accordingly, Applicants respectfully submit that the Examiner's rejection of claims 5-10 is inappropriate and respectfully request reconsideration and withdrawal thereof, in due course.

According to the aspect of Applicants' invention recited in claim 21, a refractometer for measuring a refractive index of a sample is recited. The refractometer of claim 21 includes a prism having an interface surface adapted to contact the sample, a light source configured to radiate light from an entrance face of the prism to the interface surface, a photoelectric sensor configured to receive light reflected from the interface surface and directed outward from an exit face of the prism and a slit extending in a direction perpendicular to a direction parallel to the interface surface and the entrance face of the prism. The slit is arranged between the light source and the entrance face of the prism wherein only the prism and the slit are provided in an optical path between the light source and the photoelectric sensor.

In setting forth the rejection of claim 21, the Examiner admits that NOZAWA et al. does not disclose a slit as recited in Applicants claim 21. Thus, the Examiner relies upon ZELIHA (not AMMELDER) for this teaching. However, ZELIHA does not disclose a slit as recited in Applicants' claim 21. In particular, claim 21 recites, inter alia, a slit extending in a direction perpendicular to a direction parallel to the interface surface and the entrance face of the prism, the slit being arranged between the light source and the entrance face of the prism.

It is thus respectfully submitted that no proper combination of NOZAWA et al. and ZELIHA teaches, discloses, or renders obvious the slit as recited in the combination of Applicants' claim 21. Accordingly, Applicants respectfully request reconsideration

and withdrawal of the outstanding rejection of claim 1 as unpatentable under 35 U.S.C. § 103.

The various dependent claims in the present application are submitted to be patentable over the various references, or combinations of references, applied there-against in the outstanding Official Action based upon their own specific limitations as well as based upon the limitations of the shown to be allowable independent claims from which they depend.

Accordingly, Applicants respectfully request reconsideration of each and every one of the outstanding rejections asserted against claims 1-10 and 21 together with an indication of the allowability of all the claims in the present application, in due course. Such action is respectfully requested and it is now believed to be a appropriate and proper.

As noted above, the Examiner indicated claims 11-13 and 16-20 as being allowed. In this regard, Applicants note that the Examiner's statement of reasons for allowance with respect to claim 12. While Applicants do not disagree with the reasons set forth by the Examiner, Applicants respectfully submit that claim 12 defines a combination of features and that the basis for the patentability of claim 12 is thus also based on the totality of the features recited therein. Accordingly, Applicants respectfully submit that the basis for the patentability of claim 12, or of any other claim in the present application, should not be limited to the features enumerated by the Examiner.

SUMMARY AND CONCLUSION

Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so. Applicants have amended several of the claims rejected by the Examiner merely to more clearly define the features thereof but not in view of the prior art. Accordingly, such amendments should not give rise to any prosecution history estoppel.

Applicants have discussed the features of each of Applicants claims and have pointed out that the shortcomings of the cited references with respect to such features. Applicants have additionally discussed the disclosures of the references relied upon by the Examiner in the outstanding Official Action and with respect to such disclosures, have compared the recitations of the claims thereto. Applicants have additionally pointed out the shortcomings of the cited references with respect to the recited features of Applicants invention. Accordingly, Applicants have provided a clear evidentiary basis supporting the patentability of all the claims in the present application and respectfully request an indication to such effect in due course.

Applicants have respectfully thanked the Examiner for indicating the allowability of several claims pending in the present application and have also clarified the basis for the patentability thereof in the form of comments on the Examiner's statement of reasons for allowance.

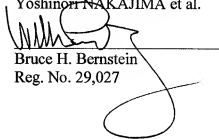
Applicants note that this Amendment is being made to advance prosecution of the application to allowance, and no acquiescence as to the propriety of the Examiner's rejections is made by the present Amendment. All amendments to the claims which have

been made in this Amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should an extension of time be necessary to maintain the pendency of this application, the Commissioner is hereby authorized to charge any additional fee to Deposit Account No. 19-0089.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Yoshinori NAKAJIMA et al.

A handwritten signature in black ink, appearing to read "Bruce H. Bernstein", is written over a horizontal line. The signature is stylized with a large, looping flourish extending from the bottom right.

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January 22, 2008
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